

ORDINANCE NO. 08-20

AN ORDINANCE ADDING ARTICLE 22 TO CHAPTER 10 OF  
THE HAYWARD MUNICIPAL CODE ESTABLISHING GREEN  
BUILDING REQUIREMENTS FOR PRIVATE DEVELOPMENT

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this Article is to promote the health, safety and welfare of Hayward residents, workers and visitors by minimizing the use and waste of energy, water and other natural resources in the construction and operation of the City's building stock and by providing a healthy indoor environment.

The green building practices required by this Article will encourage resource conservation, reduce waste generated by construction projects, increase energy efficiency and promote the health and productivity of residents, workers, and visitors of the City.

Section 2. Findings. The City Council of the City of Hayward hereby finds that:

- a. The design, construction, and maintenance of buildings and structures within the City can have a significant impact on the City's environmental sustainability, resource usage, energy efficiency, waste management, and the health and productivity of residents, workers, and visitors.
- b. Green building design, construction, and operation can have a significant, positive effect on resource conservation, energy efficiency, waste and pollution generation, and the health and productivity of a building's occupants over the life of the building.
- c. Green building benefits are spread throughout the systems and features of the building. Green buildings can include, among other things, the use of certified sustainable wood products; extensive use of high-recycled-content products; recycling of waste that occurs during deconstruction, demolition, and construction; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved indoor air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production.
- d. In recent years, green building design, construction and operational techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects. A number of local and national systems have been developed to serve as guides to green building practices. Requiring commercial and new residential projects to incorporate

green building measures is appropriate to help achieve the public health and welfare benefits of green building.

Section 3. The City of Hayward's Municipal Code is hereby amended to add Article 22 to Chapter 10 as follows:

**"GREEN BUILDING REQUIREMENTS FOR PRIVATE DEVELOPMENT**

SECTION 10- 22.100 TITLE. This Article shall be known and may be cited as the Private Development Green Building Ordinance of the City of Hayward.

SECTION 10-22.110 DEFINITIONS. For the purposes of this Article, certain terms are defined as follows:

- a. "Applicant" means any individual, firm, Limited Liability Company, association, partnership, political subdivision, government agency, industry, public or private corporation or any other entity that applies to the City of Hayward for permit(s) to construct a Project subject to the provisions of this Article.
- b. "Build It Green" is a non-profit membership organization which developed the GreenPoint Rating Systems for Residential and Mixed Use occupancies in order to promote sustainable buildings.
- c. "City" means the City of Hayward.
- d. "Commercial" means any building or space used for retail, industrial, office or other non-residential use.
- e. "Covered Project" means any privately funded construction project, except as otherwise provided herein, for which an application for a building permit is received after August 1, 2009, or after the date the California Energy Commission and California Building Standards Commission approve green building standards required by this Article, whichever date is later, consisting of:
  - i. new construction, additions or remodels over 500 square feet for residential projects, or
  - ii. new construction, additions or remodels entailing 1,000 square feet or more of new or remodeled Commercial space.

f. "Green building" means a whole systems approach to the design, construction, and operation of buildings and structures that helps mitigate the environmental, economic, and social impacts of construction, demolition and renovation. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.

g. "GreenPoint Rated" is a third party rating system for homes based on a set of green building measures incorporated from Build It Green's Green Building Guidelines and used to evaluate a home's environmental performance. City staff shall maintain the most recent version of Build It Green's GreenPoint Rated Checklists for Single Family, Multi-Family and Existing Homes and Residential Green Building Guidelines for New Home Construction, Home Remodeling and Multifamily Green Building.

h. "Historical Building" means any structure or collection of structures deemed of importance to the history, architecture or culture of an area by an appropriate local or state governmental jurisdiction, pursuant to Section 18955 of the California Health and Safety Code and Section 8-201 of the 2007 California Historical Building Code, Title 24, Part 8.

i. "LEED™" and "LEED™ Checklist" mean the Leadership in Energy and Environmental Design rating system, certification methodology, and checklist used by the United States Green Building Council (USGBC). City staff shall maintain the most recent version of the LEED™ Rating system at all times.

j. "Multi-family Residential Building" means a single residential building that has more than two dwelling units.

k. "Mixed-Use" means a building with residential and commercial uses.

#### SECTION 10- 22.120 APPLICATION.

The provisions of this Article apply to Covered Projects, with the following exemptions or exceptions:

- a. Historical Buildings, as defined by this Article.
- b. Permits issued only for foundation repair, re-roofing, repair of fire damage, work required by termite reports, upgrades for accessibility , or other items of building or structural maintenance, as determined by the Building Official.
- c. Hardship exemptions may be granted by the Building Official for projects valued at less than \$50,000 where the Project Applicant can demonstrate the cost of complete

compliance will exceed 20.0% of construction costs. In these cases, the applicant may limit compliance to 20.0% of the cost of the project.

d. Exemptions or partial exemptions may be granted by the City Council for other projects where it can be demonstrated that complete compliance is not possible due to unusual building circumstances. This exemption is for other than economic considerations.

e. Projects for which a Vesting Tentative Map has been approved by January 1, 2009.

f. Projects subject to a Development Agreement approved by January 1, 2009, but without a Vesting Tentative Map, shall comply with the requirements of this Article if a building permit application is received on or after January 1, 2011.

#### **SECTION 10-22.130 ALTERNATIVE GREEN BUILDING REQUIREMENTS.**

The following green building requirements shall apply to all Covered Projects. Wherever reference is made to the Hayward checklist or Green Point Rated systems, a comparable equivalent rating system may be used if the Building Official finds the proposed alternate method is satisfactory and complies with the intent of this Article. The applicable systems are those in effect at the time a complete application for the Project is submitted to the Building or Planning Division.

#### **SECTION 10 -22.140 STANDARDS FOR COMPLIANCE.**

a. **Multi-Family Residential and Mixed-Use Buildings.**

Applicants for new Multi-Family Residential Covered Projects, prior to obtaining a Certificate of Occupancy, shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated. The Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

Prior to August 1, 2009, in order to promote familiarity with green building standards, applicants are encouraged to have their projects GreenPoint Rated, or to incorporate items, if any, from the checklist; however, only completing the list and submitting it is mandatory. For such projects that are GreenPoint Rated, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

These requirements shall also apply to Mixed-Use Covered Projects.

b. New Single Family Dwellings.

Applicants for new Single Family Covered Projects prior to obtaining a Certificate of Occupancy, shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated. The Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

Prior to to August 1, 2009, in order to promote familiarity with green building standards, applicants are encouraged to have their projects GreenPoint Rated, or to incorporate items, if any, from the checklist; however, only completing the list and submitting it is mandatory. For such projects that are GreenPoint Rated, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

c. Residential Additions/Remodels Greater Than 500 Square Feet.

Applicants for residential Covered Projects consisting of remodels and/or additions greater than 500 square feet to existing residential single family or multi-family dwellings, shall submit, with their permit application, the GreenPoint Rated Existing Homes Checklist. The Applicant shall indicate on the plans and checklist if any of the items on the checklist have been incorporated into the project. Applicants are encouraged to have their projects GreenPoint Rated, or to incorporate items from the checklist; however, only completing the list and submitting it is mandatory. For such projects that are GreenPoint Rated, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

d. Commercial Covered Projects.

Applicants for new Commercial Covered projects shall submit with their permit application the City of Hayward checklist for Private Non-Residential Development. The plans shall clearly show where each item has been incorporated into the project. The plan review, to be conducted by City staff, shall verify the incorporation of checklist items into the plans. The building inspection process, to be conducted by City staff, shall verify the inclusion of these items in the construction. A Certificate of Occupancy shall not be issued until the incorporation of the checklist items is verified by City staff. The Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

Prior to to August 1, 2009, applicants are encouraged to incorporate measures from the City of Hayward Checklist for Private Non-Residential Development into their projects. For such projects that incorporate such measures, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

**SECTION 10-22.150 PROMULGATION OF IMPLEMENTING REGULATIONS.**

The City Manager shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the requirements of this Article. The initial rules and regulations shall be promulgated after securing and reviewing comments from affected City departments.

Section 4. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 5. Annual Review. The City Council shall review this ordinance at least.. annually to determine whether it needs to be updated because of new legislation enacted by the State or new standards developed by applicable organizations, such as StopWaste.org, Build It Green, and LEED (Leadership in Energy and Environmental Design). The Building Official shall annually report to the City Manager the number and types of projects built under this ordinance.

Section 6. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective thirty days after adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,  
held the 25<sup>th</sup> day of November, 2008, by Council Member Quirk.

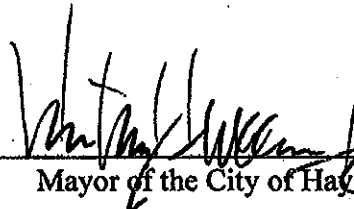
ADOPTED at a regular meeting of the City Council of the City of Hayward held  
the 2nd day of December, 2008, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS: Zermefio, Quirk, Halliday, Dowling, Henson  
MAYOR: Sweeney


NOES: COUNCIL MEMBERS: May


ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED:   
Mayor of the City of Hayward

DATE: Dec. 9, 2008

ATTEST:   
City Clerk of the City of Hayward

APPROVED AS TO FORM:   
City Attorney of the City of Hayward